

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DOMINIQUE CARY,

Defendant-Appellant.

---

UNPUBLISHED

December 3, 1999

No. 208771

Wayne Circuit Court

LC No. 97-501257

Before: Jansen, P.J., and Hoekstra and J. R. Cooper\*, JJ.

PER CURIAM.

Defendant appeals by right his conviction for attempted false pretenses over \$100, MCL 750.218; MSA 28.415. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The charge in this case arises out of defendant's attempt to purchase \$1,700 in merchandise from a Montgomery Ward store using a store credit card and a driver's license in the name of Gary LaBean. Defendant challenges the applicability of the false pretenses statute to his conduct, asserting that the more specific credit card statute, MCL 750.157m *et seq*; MSA 28.354(13) *et seq*, precludes a prosecution under the general false pretenses statute.

"Where a defendant may be charged under two statutes, one general and the other specific, the prosecutor has discretion to charge under either statute if the statutes prohibit different crimes." *People v Peach*, 174 Mich App 419, 423; 437 NW2d 9 (1989). Statutes prohibit different crimes if "an additional element is required to convict the defendant of one of the crimes, but not the other." *Id*.

The trial court properly found that the crime of false pretenses involves the additional element of false representation that is not required by the credit card statute. Defendant used a driver's license to falsely represent his identity. While defendant could have been prosecuted under the more specific credit card statute, the prosecutor did not abuse his discretion in prosecuting defendant for false pretenses. *People v Ford*, 417 Mich 66, 83; 331 NW2d 878 (1982).

---

\* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra

/s/ Jessica R. Cooper